BILL NO. S-89-02-29

SPECIAL ORDINANCE NO. S-52-89

AN ORDINANCE approving CONTRACT FOR RES. 457-88, SPY RUN NSA - STORM SEWER IMPROVEMENT between JOHN DEHNER, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works and Safety.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the CONTRACT FOR RES. 457-88, SPY RUN NSA - STORM SEWER IMPROVEMENT by and between JOHN DEHNER, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works and Safety, for:

> the construction of storm sewers in the area bounded on the North and East by the St. Joe River; on the South by the South right-of-way line of Tennessee Avenue and bounded on the West by the West right-of-way line of Spy Run Avenue; being more particularly described as per the attached resolution;

the Contract price is Two Hundred Forty-Eight Thousand Eight Hundred Ninety-Seven and no/100 Dollars ($248,897.00), all as more particularly set forth in said Contract, which is on file in the Office of the Board of Public Works and Safety and, is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved. Two (2) copies of said Contract are on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Councilmember

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay, City Attorney

RESOLUTION 457-1988

SPY RUN NSA - STORM SEWER IMPROVEMENT

RESOLVED by the **Board of Public Works & Safety** of the City of Fort Wayne, Indiana, that:

The construction of storm sewers will be undertaken in the area bounded on the North and East by the St. Joe River; on the South by the South right-of-way line of Tennessee Avenue and bounded on the West by the West right-of-way line of Spy Run Avenue; being more particularly described as follows:

Main Line:
Beginning at an existing storm sewer manhole 20± LF North of the centerline intersection of Tennessee Avenue and Griswold Drive; thence Northwesterly 1000± LF to a proposed storm sewer manhole; thence Westerly 870± LF to a proposed storm sewer manhole; thence South 210± LF to a proposed storm sewer inlet.

Lateral A:
Beginning at a proposed storm sewer manhole 450± LF West and 175± LF North of the centerline intersection of Griswold Drive and Lawton Park; thence South 215± LF to a proposed storm sewer inlet.

Lateral B:
Beginning at an existing storm sewer manhole 200± LF South of the centerline intersection of Wagner Street and North Hanna; thence North 165± LF to a proposed storm sewer manhole.

Lateral C:
Beginning at an existing storm sewer manhole 190± LF North of the centerline intersection of Wagner Street and North Hanna; thence South 150± LF to a proposed storm sewer manhole.

Lateral D:
Beginning at a proposed storm sewer manhole 20± LF East of the centerline intersection of Spy Run Avenue and Tennessee Avenue; thence North 450± LF to a proposed storm sewer inlet.

Said storm sewers shall be 12", 15" 18" and 27" in diameter.

And, said sewers with all their appurtenances shall be constructed in accordance with the plans, profiles and specifications now on file in the Office of the Public Works & Safety of said City.

This project is funded by a Housing and Urban Development Community Development Block Grant and is subject to the requirements of Section (3) of the Housing and Development Act of 1968 as amended.

Adopted this 16th day of November 1988.

BOARD OF PUBLIC WORKS & SAFETY

By Angela S. Derheimer
Angela S. Derheimer, Director
Board of Public Works

By Daniel G. Heath
Daniel G. Heath, Director
Board of Public Safety

By C. David Silletto
C. David Silletto, Director
Administration & Finance

ATTEST:
Helen Gochenour
Helen Gochenour, Clerk

PROJECT RES. NO. 457-1780

CONTRACTOR	ENGR'S. ESTIMATE	John Dehner Inc.	Land, Inc.	Kreager Bros.	Bercal, Inc.	Scheidlemen		
CERTIFIED CHECK / BID BOND								
NON-COLLUSION AFF.								
FINANCIAL STATEMENT / CERT. IN LIEU OF								
CERTIFICATION OF NON-SEGRECATED FAC.								
MINORITY/FEMALE EMPLOYMENT REQ.								
MBE/WBE STATEMENT — % GOAL								
PROMPT PAYMENT DISCOUNT (A) 10 CALENDER DAYS % (B) 20 CALENDER DAYS % (C) 30 CALENDER DAYS % (D) OTHER ..... %								

ITEM NO.	DESCRIPTION	UNIT	U.P.	EXTENSION	U.P.	EXTENSION	U.P.	EXTENSION	U.P.	EXTENSION	U.P.	EXTENSION	U.P.	EXTENSION	U.P.	EXTENSION	U.P.	EXTENSION
1	27" ϕ Class III RCP Storm Sewer	785 LF	37.50	34737.50	43.81	43152.85	49.20	48462.00	34.02	33,509.70	40.00	39,400.00	43.97	42,143.65				
2	18" ϕ Class III RCP Storm Sewer	872 LF	31.50	27,468.00	31.48	27,450.56	40.00	34,880.00	24.15	21,058.20	26.00	22,672.00	41.47	34,161.84				
3	15" ϕ Class III RCP Storm Sewer	155 LF	27.50	4262.50	25.53	3966.15	35.00	5425.00	18.81	2915.55	21.00	3255.00	31.12	4831.35				
4	12" ϕ Class III RCP Storm Sewer	1237 LF	25.00	30,925.00	24.23	29,960.19	18.00	22,246.00	17.00	21,029.00	19.00	23,503.00	37.15	45,954.55				
5	Std. CFW Type I-A, B, C or F M.H.	16 Ea.	1250.00	20,000.00	1106.24	17,700.16	1275.00	20,400.00	1246.00	19,936.00	1485.00	23,760.00	1136.58	1,136.58				
6	Std. CFW Type II-B M.H.	1 Ea.	1,350.00	1,350.00	2733.75	2,733.75	3535.00	3,535.00	3219.00	3,219.00	3600.00	3,600.00		12,492.17				
7	Std. CFW Type II-C Inlets	10 Ea	1050.00	10,500.00	600.06	6000.60	600.00	6000.00	809.00	8,090.00	475.00	4,750.00	595.41	5954.10				
8	Special Structure Complete	L.S.		20,000.00		22,375.00		23,000.00		21,277.00		38,485.00		35,325.25				
9	#53-#73 Stone Backfill	3000 c.y.	12.50	37,500.00	10.80	32,400.00	9.00	27,000.00	15.81	47430.00	13.50	40,500.00	0.30	600.00				
10	Deep Strength Asphalt	500 ton	32.00	16,000.00	40.10	20,050.00	40.00	20,000.00	40.00	20,000.00	27.00	13,500.00	30.80	15,400.00				
11	1" H.A.C. Surface	17 ton	32.00	544.00	52.80	897.60	32.00	884.00	55.00	935.00	63.00	1071.00	72.47	1,231.99				
12	7" Concrete Alley (Incl. Removal)	1600 sy	32.50	52,000.00	19.44	31,104.00	17.00	27,200.00	23.00	36,800.00	27.45	45920.00	21.74	34,784.00				
13	Std. CFW Curb Face Walk (Incl. Rem)	1200 sf	3.50	4200.00	2.63	3,156.00	2.50	3,000.00	4.50	5400.00	4.30	5040.00	3.79	4,548.00				
14	Std. CFW Type III Curb	100 lf.	10.00	1000.00	20.19	2,019.00	19.00	1900.00	15.75	1575.00	18.00	1800.00	12.61	1261.00				
15	Double Chip & Seal Surface	700 sy	2.75	1925.00	3.41	2,387.00	3.00	2100.00	3.50	2450.00	3.20	2240.00	3.34	2,338.00				
16	Type A Casting	1 Ea	475.00	475.00	217.49	217.49	250.00	250.00	200.00	200.00	270.00	270.00	352.00	352.00				
17	Driveway Replacement (Incl. Removal)	140 sy	25.00	3,500.00	23.76	3,326.40	19.00	2660.00	32.00	4480.00	31.50	4410.00	18.70	2618.00				
	CONTRACTOR'S BASE BID			248,587.00		248,897.00		248,962.00		250,305.05		274,176.00		284,181.20				
	ENGINEERING & INSPECTION																	
	R/W CUT PERMITS																	
	ADVERTISING																	
	AREA CONNECTION FEES																	
	TOTAL PROJECT COST																	

February 1, 1989

Department of Public Works & Safety
Office of the Board
Third Floor Conference Room
Meeting held at 9:00 p.m.

Angela S. Derheimer, Director
C. David Silletto, Member

Helen V. Gochenour, Clerk

1. RECEIVE BIDS - **Spy Run NSA - Storm Sewer Improvement**
Bounded on the North & East by the St. Joe River; on the South by the South right-of-way line of Tennessee Avenue and bounded on the West by the West right-of-way line of Spy Run Avenue

ALL STAR CONST.	
BERCOT, INC.	$ 274,176
BROOKS CONST.	
JOHN DEHNER	248,897 +1
KREAGER BROS.	250,305.05 3
LAND, INC.	248,962 2
SCHEIDLEMAN EXC.	284,181.70
Eng. Est.	$268,587.00
Award Contract	2-8-89

CONTRACT NUMBER 457-1988

BOARD ORDER NUMBER 30-88 **WORK ORDER NUMBER 73500**

THIS CONTRACT made and entered into in triplicate this 15TH day of February, 1989, by and between **John Dehner Inc.**, herein called **CONTRACTOR**, and the **City of Fort Wayne, Indiana,** an Indiana Municipal Corporation, acting by and through the Mayor and the Board of Public Works and Safety, herein called **OWNER;**

WITNESSETH, that the **CONTRACTOR** and the **OWNER,** for the considerations hereinafter named, agree as follows:

ARTICLE 1: SCOPE OF WORK

CONTRACTOR shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the following:

MAIN LINE
Beginning at an existing storm sewer manhole 20 LF North of the centerline intersection of Tennessee Avenue and Griswold Drive; thence Northwesterly 1000 LF to a proposed storm sewer manhole; thence Westerly 870 LF to a proposed storm sewer manhole; thence South 210 LF to a proposed storm sewer inlet.

Lateral A
Beginning at a proposed storm sewer manhole 450 LF West and 175 North of the centerline intersection of Griswold Drive and Lawton Park; thence South 215 LF to a proposed storm sewer inlet.

Lateral B
Beginning at an existing storm sewer manhole 200 LF South of the centerline intersection of Wagner Street and North Hanna; thence North 165 LF to a proposed storm sewer manhole.

Lateral C
Beginning at an existing storm sewer manhole 190 LF North of the centerline intersection of Wagner Street and North Hanna; thence South 150 LF to a proposed storm sewer manhole.

Lateral D
Beginning at a proposed storm sewer manhole 20 LF East of the centerline intersection of Spy Run Avenue and Tennessee Avenue' thence North 450 LF to a proposed storm sewer inlet.

Said storm sewer shall be 12", 15", 18", and 27" in diameter.

all according to Spy Run Storm Sewer Improvement, Drawing No. SY11196, Sheets 1-9, and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2: THE CONTRACT SUM

The **OWNER** shall pay **CONTRACTOR** for the performance of the contract the unit price sum of **$248,897.00.** In the event the amount of work is increased or decreased by **OWNER**, the contract sum shall be increased or decreased according to the unit price schedule set forth in the **CONTRACTOR'S** proposal.

ARTICLE 3: PROGRESS PAYMENTS

The **OWNER** shall make payments on account of the contract as provided herein, as follows:

> Monthly progress payments will be made by **OWNER** upon submission of a statement of quantities of work completed and/or materials supplied to the job site as of the end of each month. On or about the 15th day of the following month, ninety (90%) percent of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the **CONTRACTOR** and approved or revised by the Engineering Department of the **OWNER** less the aggregate of previous payments, will be paid by **OWNER** to the **CONTRACTOR.**

ARTICLE 4: ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work if fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the **CONTRACTOR** that the work is ready for final inspection and acceptance, the **Board of Public Works and Safety** will direct the **Engineering Department** of the **OWNER** to promptly make such inspection. When the **Engineering Department** finds the work acceptable under the contract, and the contract if fully performed, it shall so inform the **Board of Public Works and Safety** which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted. Thereupon, the entire balance of the Contract sum shall be due and payable to the **CONTRACTOR;** provided only that **CONTRACTOR** shall first furnish **OWNER**, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid, and all required manpower utilization reports for this project have been submitted.

ARTICLE 5: WORKMEN'S COMPENSATION ACT

The **CONTRACTOR** will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the **Workmen's Compensation Act** in accordance with the Statutes of the **State of Indiana** and Ordinances of the **City of Fort Wayne.**

Any judgement rendered against the **City of Fort Wayne** in any suits for damages or injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of **CONTRACTOR**, or its agents, employees or workmen or any judgement of any court or award of any **Board of Arbitrators** or of the **Industrial Board of the State of Indiana** rendered against the **City of Fort Wayne** in any suit or claim arising under said **Workmen's Compensation** for accidental injuries or death suffered by his employees or the employees of any **Subcontractor** or **Subcontractors** in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said **CONTRACTOR**, shall be conclusive against **CONTRACTOR** as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that **CONTRACTOR** indemnify and hold harmless **OWNER** in the premises.

ARTICLE 6: NON-DISCRIMINATION OF LABOR

The **CONTRACTOR** further agrees to be bound by Section 15-13 (as amended), of the **Code of the City of Fort Wayne, Indiana of 1974**, passed by the **Common Council** of the **City of Fort Wayne, Indiana**, as **General Ordinance No. G-34-78** (as amended) on December 12th, 1978. The successful bidder shall file a **Manpower Utilization Report** for this project with the **Compliance Office** within ten (10) days after completion of construction or upon request of the **Office of Compliance.**

ARTICLE 7: PREVAILING WAGE SCALE

The **CONTRACTOR** agrees to pay, and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the **Statutes** of the **State of Indiana**, and the **Ordinances** of the **City of Fort Wayne**, according to the applicable wage scale as included in the bid documents.

ARTICLE 8: COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

a. Advertisement for Bids, for Contract No. 457-1988
b. Instructions to Bidders for Contract No. 457-1988
c. Contractor's Proposal Dated 1 February 1989
d. Fort Wayne Engineering Department drawing #11196
e. Supplemental Specifications for Contract No.
f. Workman's Compensation Act, Statutes of the State of Indiana and Ordinances of the City of Fort Wayne.
g. Non-Discrimination of Labor, General Ordinance No. G-34-78 (as amended)
h. Prevailing Wage Scale
i. Performance and Guaranty Bond
j. Labor and Material Payment Bond
k. Minority/Female Employment Hourly Utilization

l. Right-of-Way Cut Permit
m. Comprehensive Liability Insurance Coverage
n. MBE/WBE Commitment Form.
o. _____
p. _____

ARTICLE 9: GUARANTEE OF WORKMANSHIP

At the time of execution of this contract, the **CONTRACTOR** shall furnish a Performance and Guaranty Bond in favor of the City of Fort Wayne in the amount of the total value of the ;materials supplied and/or work performed under the terms of this contract. The said bond shall ensure the completion of the work covered hereunder and shall guarantee the materials and workmanship for a period of one (1) year following written acceptance of the work by the **OWNER.**

ARTICLE 10: INDEMNITY

CONTRACTOR shall furnish to **OWNER**, within ten (10) days of the date hereof, a certificate from an insurer acceptable to **OWNER** showing personal injury and property damage insurance, in force and issued in connection with the work to be performed under this Contract, in amounts satisfactory to **OWNER** and in accordance with the **Statutes** of the **State of Indiana.**

ARTICLE 11: ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the **CONTRACTOR** and the **OWNER** under the provisions of this Contract shall be subject to the decision of the **Director of Board of Public Works and Safety** of the **OWNER**, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of the work covered by this Contract will be permitted except on prior written authorization by the **Board of Public Works and Safety.**

ARTICLE 12: COMPLETION DATE

The **CONTRACTOR** agrees to complete the work specified in the contract within 150 consecutive calendar days after having been ordered by the **OWNER** to commence work under this contract.

ARTICLE 13: COUNCILMANIC APPROVAL

This agreement, although executed on behalf of the **OWNER** by the **Mayor** and **Board of Public Works and Safety** of the **City of Fort Wayne, Indiana,** shall not be binding upon the **OWNER** unless and until the same shall have been ratified and approved by the **Common Council** of the **City of Fort Wayne, Indiana,** and should said **Common Council** fail to approve the same within ninety (90) days after the date hereof, then this Contract shall be and become wholly void.

ARTICLE 14:

This contract is governed by Laws of the **State of Indiana.**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

(CONTRACTOR)

BY: _____
GREGORY DEHNER, VICE-PRESIDENT

BY: _____
RICHARD E. ENSLEY, SECRETARY

CITY OF FORT WAYNE, INDIANA

BY: _____
PAUL HELMKE, MAYOR

BY: _____
Angela S. Derheimer, Director
Public Works

BY: _____
C. David Silletto, Director
Administration and Finance

BY: _____
Director of Public Safety

ATTEST:

_____
Helen V. Gochenour, Clerk

ACKNOWLEDGEMENT

STATE OF INDIANA)
)SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State personally appeared Paul Helmke, Mayor of the City of Fort Wayne, Angela S. Derheimer, Member, and C. David Silletto, Member, as the Board of Public Works & Safety of the City of Fort Wayne, Indiana, and acknowledged the execution of the foregoing Contract as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 15th day of Feb., 198__.

Carolyn S. Eschmann
Carolyn S. Eschmann
Notary Public

My Commission Expires:

6-16-91

Resident of Allen County

ACKNOWLEDGEMENT

STATE OF INDIANA)
)SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared GREGORY DEHNER RICHARD E. ENSLEY who acknowledged the execution of the foregoing Contract as and for his/her/their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 15TH day of FEBRUARY, 1989.

Roger N. Carpenter
Notary Public ROGER N. CARPENTER

Resident of ALLEN County

My Commission Expires:

JANUARY 13, 1992

This instrument prepared by Terry L. Atherton, P.E. L.S.

UNITED STATES FIDELITY AND GUARANTY COMPANY

Baltimore, Maryland

(A Stock Company)

PERFORMANCE BOND

Approved by The American Institute of Architects

A. I. A. Document No. A-311 (February 1970 Edition)

BOND NUMBER.....

KNOW ALL MEN BY THESE PRESENTS:

That JOHN DEHNER, INC.

..... as Principal, hereinafter called Contractor, and UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, Baltimore, Maryland, as Surety, hereinafter called Surety, are held and firmly bound unto .....

Board of Public Works and Safety, City of Fort Wayne

as Obligee, hereinafter called Owner, in the amount of Two Hundred Forty Eight Thousand, Eight Hundred Ninety Seven and no/100---------- Dollars ($ 248,987.00---), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated February 15 19 89, entered into a contract with Owner for

Spy Run NSA - Storm Sewer Improvements
Resolution #457-1988

in accordance with drawings and specifications prepared by .....
(Here insert full name, title and address)

....., which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

(1) Complete the Contract in accordance with its terms and conditions, or

(2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

Signed and sealed this 15th day of February, 19 89

In the presence of:

D. L. Ensley
(Witness)
YASTE, ZENT & RYE AGENCY, INC.

Kathleen K. Conrad
(Witness)

JOHN DEHNER, INC.

By ..... (Seal)
Principal

UNITED STATES FIDELITY AND GUARANTY COMPANY

By ..... (Seal)
Attorney-in-Fact

Contract 211 (2-70)

UNITED STATES FIDELITY AND GUARANTY COMPANY

Baltimore, Maryland

(A Stock Company)

LABOR AND MATERIAL PAYMENT BOND

Approved by The American Institute of Architects

A. I. A. Document No. A-311 (February 1970 Edition)

KNOW ALL MEN BY THESE PRESENTS: BOND NUMBER .....

That JOHN DEHNER, INC. ..... as Principal, hereinafter called Principal, and UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, Baltimore, Maryland as Surety, hereinafter called Surety, are held and firmly bound unto Board of Public Works and Safety, City of Fort Wayne as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of Two Hundred Forty Eight Thousand, Eight Hundred Ninety Seven and no/100--- Dollars ($ 248,987.00---), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated February 15 19 89 entered into a contract with Owner for Spy Run NSA - Storm Sewer Improvements Resolution #457-1988

in accordance with drawings and specifications prepared by ..... (Here insert full name, title and address)

..... which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

(1) A claimant is defined as one having a direct contract with the Principal or with a sub-contractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

(2) The above-named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

(3) No suit or action shall be commenced hereunder by any claimant,

(a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

(b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

(4) The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this 15th day of February, 19 89

D. E. Ensley (Witness)

YASTE, ZENT & RYE AGENCY, INC.

Kathleen L. Conrad (Witness)

JOHN DEHNER, INC.

By Gregory Dehner (Seal) Principal

UNITED STATES FIDELITY AND GUARANTY COMPANY

By [signature] (Seal) Attorney-in-Fact

This bond is issued simultaneously with performance bond in favor of the Owner conditioned on the full and faithful performance of the Contract.

Contract 211-A (2-70)

CERTIFIED COPY

GENERAL POWER OF ATTORNEY

No. 97796

Know all Men by these Presents:

That UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, and having its principal office at the City of Baltimore, in the State of Maryland, does hereby constitute and appoint Gerald A. Dahle, John J. Pikel, Donald T. Belbutowski and Diane T. Green

of the City of Fort Wayne, State of Indiana its true and lawful attorneys in and for the State of Indiana

for the following purposes, to wit:

To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said UNITED STATES FIDELITY AND GUARANTY COMPANY, through us, its Board of Directors, hereby ratifies and confirms all and whatsoever anyone of the said Gerald A. Dahle and the said John J. Pikel and the said Donald T. Belbutowski and the said Diane T. Green

may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said UNITED STATES FIDELITY AND GUARANTY COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its Vice-President and Assistant Secretary, this 27th day of November, A. D. 1985

UNITED STATES FIDELITY AND GUARANTY COMPANY.

(Signed) By W. Bradley Wallace
Vice-President.

(SEAL)

(Signed) John A. Umberger
Assistant Secretary.

STATE OF MARYLAND, BALTIMORE CITY, } ss:

On this 27th day of November, A. D. 1985, before me personally came W. Bradley Wallace, Vice-President of the UNITED STATES FIDELITY AND GUARANTY COMPANY and John A. Umberger, Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said that they, the said W. Bradley Wallace and John A. Umberger were respectively the Vice-President and the Assistant Secretary of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their names thereto by like order as Vice-President and Assistant Secretary, respectively, of the Company.

My commission expires the first day in July, A. D. 1986..

(SEAL) (Signed) Margaret M. Hurst
Notary Public.

STATE OF MARYLAND BALTIMORE CITY, } Sct.

I, Saundra E. Banks, Clerk of the Circuit Court for Baltimore City, which Court is a Court of Record, and has a seal, do hereby certify that Margaret M. Hurst, Esquire, before whom the annexed affidavits were made, and who has thereto subscribed his name, was at the time of so doing a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and sworn and authorized by law to administer oaths and take acknowledgment, or proof of deeds to be recorded therein. I further certify that I am acquainted with the handwriting of the said Notary, and verily believe the signature to be his genuine signature.

In Testimony Whereof, I hereto set my hand and affix the seal of the Circuit Court for Baltimore City, the same being a Court of Record, this 27th day of November, A. D. 1985

(SEAL) (Signed) Saundra E. Banks
Clerk of the Circuit Court for Baltimore City.

FS 3 (1-83)

PRINTED IN U.S.A.

Read the first time in full and on motion by Gia Quinta, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on ____, the ____, day of ____, 19__, at ____ o'clock ____.M.,E.S.T.

DATED: 2-28-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Gia Quinta, seconded by Bradbury, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	8		1	
BRADBURY	✓			
BURNS	✓			
GiaQUINTA	✓			
HENRY	✓			
LONG			✓	
REDD	✓			
SCHMIDT	✓			
STIER	✓			
TALARICO	✓			

DATED: 3-27-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ ~~(GENERAL)~~ (SPECIAL) ~~(ZONING MAP)~~ ORDINANCE ~~RESOLUTION~~ NO. S-52-89 on the 27th day of March, 19 89,

Sandra E. Kennedy
ATTEST
SANDRA E. KENNEDY, CITY CLERK

Charles B. Redd
SEAL
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of March, 19 89, at the hour of 2:15 o'clock P.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 6th day of April, 19 89, at the hour of 4:00 o'clock P.M.,E.S.T.

PAUL HELMKE, MAYOR

Admn. Appr. _____

TITLE OF ORDINANCE Contract for Res. 457-88, Spy Run NSA - Storm Sewer Improvement

DEPARTMENT REQUESTING ORDINANCE Board of Public Works & Safety

SYNOPSIS OF ORDINANCE The Contract for Res. 457-88, Spy Run NSA, is for the construction of storm sewers in the area bounded on the North and East by the St. Joe River; on the South by the South right-of-way line of Tennessee Avenue and bounded on the West by the West right-of-way line of Spy Run Avenue; being more particularly described as per the attached resolution. John Dehner, Inc., is the contractor.

S-88-02-29

EFFECT OF PASSAGE Storm Sewer Improvement in the Spy Run area.

EFFECT OF NON-PASSAGE _____

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) $248,897.00

ASSIGNED TO COMMITTEE _____

BILL NO. S-89-02-29

REPORT OF THE COMMITTEE ON CITY UTILITIES

MARK E. GiaQUINTA, CHAIRMAN
THOMAS C. HENRY, VICE CHAIRMAN
LONG, BURNS, TALARICO

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) approving CONTRACT FOR RES. 457-88, SPY RUN NSA - STORM SEWER IMPROVEMENT between JOHN DEHNER, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works and Safety

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID

(ORDINANCE) (~~RESOLUTION~~)

DO PASS	DO NOT PASS	ABSTAIN	NO REC

DATED: 3-27-89.

Sandra E. Kennedy
City Clerk